

## **Exhibit 9**

John F. Collins (JC 9324)  
DEWEY BALLANTINE LLP  
1301 Avenue of the Americas  
New York, New York 10019  
(212) 259-8000

David A. Ettinger (P26537)  
Jeffrey H. Kuras (P66036)  
HONIGMAN, MILLER, SCHWARTZ AND COHN, LLP  
660 Woodward Avenue  
2290 First National Building  
Detroit, MI 48226-3506  
(313) 465-7368

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
USA BASEBALL, THE NATIONAL HIGH  
SCHOOL BASEBALL COACHES ASSOCIATION,  
DR. PETER BERG, JUAN HERNANDEZ, DENNIS  
CANALE, MEL ZITTER, MICHAEL CRUZ, TITO  
NAVARRO, JOHN TORRES, EASTON SPORTS,  
INC., WILSON SPORTING GOODS CO.,  
RAWLINGS SPORTING GOODS COMPANY, and  
HILLERICH & BRADSBY CO.

Plaintiffs,

- against -

Civil Action No. 07-CV-3605

CITY OF NEW YORK,

Defendant.

-----X

**DECLARATION OF DR. PETER BERG**

I, Peter Berg, depose and state as follows:

1. I am a resident of Brooklyn, New York, and the father of Sam Berg, a junior shortstop and pitcher on the varsity team at Polytech Preparatory Country Day School in Brooklyn. I am also a medical doctor, baseball coach, and avid supporter of my son's baseball activities. If sworn as a witness, I could testify competently to the facts contained herein.

2. I have taken an interest in the issue of the safety of metal and nonwood composite bats because of my son and my coaching activities. If I believed that metal or nonwood composite bats were unsafe, I would not allow my son to play in these games.

3. I have investigated the safety issue myself. I personally reviewed the available scientific literature on the subject, performed my own online searches, and attended the New York City Council's hearing on the Bat Ordinance in March of this year. I have not seen any scientific evidence that demonstrates an increased safety risk due to metal or nonwood composite bats. Nor have I seen scientific evidence demonstrating higher exit speeds of balls hit off metal or nonwood composite bats given the performance and design restrictions placed on these bats by the NCAA and the National Federation of State High School Associations.

4. While my son Sam enjoys using wood bats himself, he recognizes that wood bats are more difficult to use successfully because the sweet spot on wood bats is smaller than those of metal bats. While the larger sweet spot of a metal bat does not result in a faster exit speed than a solid hit off a wood bat, it does allow a player to make solid contact more frequently. Because many high school players are not skilled enough to consistently hit successfully with wood bats, Sam believes that metal bats make high school games more competitive and more fun. Sam also believes that government should not take this choice away from players and teams.

5. As a result of the legislation, I will now have to purchase many wood bats for my son to use, since wood bats break more frequently. The overall cost to me is much more than it would be if my son were allowed to continue to use metal or nonwood composite bats during the high school season.

I declare under penalty of perjury that the foregoing is true and correct.

This 25<sup>th</sup> day of MAY, 2007.



---

DR. PETER BERG